

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
September 21, 2012
1:30 pm**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, September 21, 2012, in Nashville, Tennessee at 1:30 p.m. Although Commissioner Bryan Kaegi was not present, a quorum was present with Chairperson Mary McDaniel and Commissioner John Jones and therefore the meeting was conducted. Executive Director Danielle Elks, Assistant Director Keith Bell, CLEO Mark Hutchens and Attorney Ginna Winfree were present.

1. **The Minutes for August 22, 2012 Commission Meeting were approved.**

A. 2. **RETAIL**

A. **NEW BUSINESS**

1. **BUSTER'S LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Romulus Corporation
Stockholders: R.M. Hammond, III and Gay P. Hammond
Proposed Stockholder: Hammond Trust

Before the Commission is a request for change in ownership of the retail store located at 191 S. Highland Street in Memphis, Tennessee. R.M. Hammond, III owns 76% of the licensee's stock and Gay Hammond owns 24% of the stock. For estate planning purposes they are proposing to transfer their stock to the Romulus M. Hammond, III, and Gay Hammond Irrevocable Life Insurance Trust for the benefit of their three children (Romulus M. Hammond, IV, Joshua P. Hammond, and Anastasia Hammond). Mr. Hammond, III will continue to own 6,187.5 shares as an individual. Romulus M. Hammond, IV will act as trustee, and Romulus Corporation will continue to hold the retail license. All documentation has been provided with the exception of the following:

- a. Questionnaire for Romulus Hammond IV and Anastasia Hammond.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon receipt of the Questionnaires of Romulus Hammond, IV and Anastasia Hammond.

Commissioner Jones made a motion to approve upon receipt of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**2. CORNER WINE
FRANKLIN, TENNESSEE (WILLIAMSON COUNTY)**

Licensee: Jai Guru Development of Franklin, LLC
Members: Krishna Patel and Vrushank Surati
Proposed New Members: Manharbhai Patel and Ramesh Surati

Before the Commission is a request for a change in membership of the retail store located at 1110 Hillsboro Road, Suite 120 in Franklin, Tennessee. Krishna Patel owns 51% of the business and Vrushank Surati owns 49% of the business. They wish to sell their proportional interest to their fathers, Manharbhai Patel and Ramesh Surati, for ten dollars plus the value of inventory. All documentation has been submitted with the exception of the following:

- a. Value of inventory.

Discussion/Action Taken:

Rob Pinson, Attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval.

Commissioner Jones made a motion to approve. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**3. JASPER LIQUOR AND WINE
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Solo Edo, Inc.
Stockholder: Israel Jasper Imasuen

Before the Commission is a request for a new retail store to be located at 843 Briley Parkway in Nashville, Tennessee. Mr. Imasuen wishes to initially invest \$170,000 to operate the business. Financing is based upon existing personal funds. Mr. Imasuen is leasing the property from Nashville Realty Ventures, LLC for a

period of ten years at \$2012/month. All documentation has been submitted with the exception of the following:

- a. Assignment of lease to Solo Edo, Inc.; and
- b. Exact employment at Delaware North and determination if Delaware North holds LBD license.

Discussion/Action Taken:

Rob Pinson, Attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following information:

- a. Assignment of lease to Solo Edo, Inc.; and
- b. Exact employment at Delaware North and determination if Delaware North holds LBD license.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**4. TOWNE SQUARE PACKAGE STORE
GREENEVILLE, TENNESSEE (GREENE COUNTY)**

Licensee: Towne Square Package Store, Inc.

Stockholders: Sven Hadjopoulos, Joshua Hadjopoulos and Mary Hadjopoulos

Proposed Stockholder: Joshua Hadjopoulos

Before the Commission is a request for a partial transfer of Stock ownership of the retail store located at 200 Summer Street in Greeneville, Tennessee. Currently, Sven and Mary Hadjopoulos each own 17 ½% of the stock, and Joshua Hadjopoulos owns 65% of the stock. Mr. and Mrs. Hadjopoulos wish to transfer the remaining portion of the stock to their son so that Joshua Hadjopoulos will own 100%. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval.

Commissioner Jones made a motion to approve. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**5. ANDY’S LIQUORS
SOUTH PITTSBURG, TENNESSEE (MARION COUNTY)**

Applicant: Jay Yogi, Inc.
Stockholders: Ashvin Patel and Yogina Patel

Before the Commission is a request for a new retail store to be located at 690 Highway 72 in South Pittsburg, Tennessee. Ashvin and Yogina Patel wish to initially invest \$150,000. Financing is based upon existing personal funds and a loan with First Volunteer Bank. The applicant corporation is leasing the property from Bill Bradford for a period of five years with monthly rent beginning at \$1500 and increasing to \$1700/month over the term of the lease. All documentation has been submitted with the exception of the following:

- a. Written acknowledgement that the store cannot be operated in conjunction with Laura’s Liquor Store;
- b. Copy of loan agreement with First Volunteer Bank.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. Written acknowledgement that the store cannot be operated in conjunction with Laura’s Liquor Store;
- b. Copy of loan agreement with First Volunteer Bank.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**6. BOTTOMS UP LIQUORS
CENTERVILLE, TENNESSEE (HICKMAN COUNTY)**

Applicant: DonLee Forrest Enterprise, LLC
Member: Lisa Forrester

Before the Commission is a request for a new retail store to be located at 1200A Highway 100 in Centerville, Tennessee. Ms. Forrester wishes to initially invest \$100,000 to operate the business. Financing is based upon a loan with First Federal Bank of Dickson.

The applicant LLC owns the property where the proposed store will be located. All documentation has been submitted with the exception of the following:

- a. Copy of original loan with First Federal Bank;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations;
- d. Use and Occupancy permit;
- e. Verification that applicant LLC does not conduct any other business.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon receipt of the following documentation:

- a. Copy of original loan with First Federal Bank;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations;
- d. Use and Occupancy permit;
- e. Verification that applicant LLC does not conduct any other business.

Commissioner Jones made a motion to approve upon receipt of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**7. CENTRAL AVENUE WINES AND LIQUORS
HUMBOLDT, TENNESSEE (GIBSON COUNTY)**

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Licensee/Seller: Mark Davis Vasquez
Applicant/Buyer: Crawford Enterprises, Inc.
Stockholders: Michael C. Crawford and Michael D. Crawford

Before the Commission is a request for a change in ownership of the retail store located at 1003 Central Avenue in Humboldt, Tennessee. Michael C. Crawford and Michael D. Crawford wish to purchase the business for \$30,000. Each will own 50% of the stock. Financing is based upon existing personal funds. The corporate applicant will be leasing the property from Harold and Patsy Gunn for a period of five years at \$500/month. All documentation has been submitted with the exception of the following:

- a. Payment of any outstanding citations—if any;
- b. TABC Inspection;
- c. Acknowledgement of the rules/regulations;
- d. Bank statements indicating \$30,000.

Discussion/Action Taken:

Director Elks stated the applicant withdrew his application due to health issues. Director Elks stated that no action was necessary.

**8. SIPS WINES AND SPIRITS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Interpriz Holding, LLC
Members: Misue Gill

Before the Commission is a request for a new retail store to be located at 3558 Lamar Avenue in Memphis, Tennessee. Ms. Gill wishes to initially invest \$60,000 to operate the business as a LLC. Financing is based upon existing personal funds. The applicant LLC will be leasing the property from Myles Gill for a period of five years at \$4500/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Deed to Myles Gill;
- d. Copy of Vanguard account indicating \$60,000

Discussion/Action Taken:

Misue Gill and Myles Gill were present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon receipt of the TABC Inspection and the Use and Occupancy permit.

Commissioner Jones made a motion to approve upon receipt of the documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

3. WINERIES

**A. EAGLE SPRINGS WINERY
SEVIERVILLE, TENNESSEE (SEVIER COUNTY)**

Applicant: Eagle Springs Winery, Inc.
Stockholders: Phillip Don Collier; Jonathan Edward Ball; and Elizabeth Kay Collier-Pittman

Before the Commission is a request for a new winery to be located at 119 W. Dumplin Valley Road in Sevierville, Tennessee. Don Collier and Kay Collier-Pittman will invest \$225,000 and will each own 45% of the stock. Mr. Ball will invest \$50,000 and own 10% of the stock. The applicant corporation will be leasing the property from DCKP Properties, LLC for a period of twenty years at \$8333/month—with an option to purchase. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Certification from Department of Agriculture.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Certification from Department of Agriculture.

Commissioner Jones made a motion to approve upon receipt of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

4. WHOLESALERS

**A. FIRESIDE DISTRIBUTING COMPANY
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Fireside Distributing Company, LLC
Members: John Fields and Randall Bennett

Before the Commission is a request for a new wholesaler to be located at 460 Metroplex Drive, Suite 207 in Nashville, Tennessee. (The initial application indicated an address of 518 Heather Place in Nashville; however, negotiations for this location were not successful.) Mr. Fields and Mr. Bennett will initially be

investing a total of \$125,000 to operate the business. Each will have 50% interest. The applicant LLC will be leasing the property from Levy Pin Oaks, LLC for a period of three years. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations;
- d. Sales Tax Number;
- e. TTB permit for new location;
- f. Deed to Levy Pin Oaks, LLC;
- g. Signed copy of the lease indicating monthly rent.

Discussion/Action Taken:

John Fields was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations;
- d. TTB permit for new location;
- e. Deed to Levy Pin Oaks, LLC;

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**B. MT DISTRIBUTORS
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee/Seller: MT Distributors, LLC
Member: James Sherrell
Applicant/Buyer: Hand Family Wine & Spirits, LLC
Members: Charles Hand, Sr. and Charles Hand, Jr.

Before the Commission is a request for a change in ownership of the wholesale business currently located at 4295 Cromwell Road, Suite 414 in Chattanooga, Tennessee. [If approved, the applicant LLC wishes to transfer location to 20 East 14th Street in Chattanooga, Tennessee and operate the business under the name of HAND FAMILY WINE AND SPIRITS.](#)

Mr. Hand, Sr. and Mr. Hand, Jr. wish to purchase the assets of MT Distributors, LLC. The applicant LLC will be leasing the property at the new proposed location for a period of ten years at \$2500/month. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgement of the rules/regulations;
- d. Deed to CWHFP, LLC;
- e. Surrender of license by MT Distributors, LLC; and
- f. TTB permit at this location.

Discussion/Action Taken:

Rob Pinson, Attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgement of the rules/regulations;
- d. Deed to CWHFP, LLC;
- e. Surrender of license by MT Distributors, LLC; and
- f. TTB permit at this location.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**C. ALEXESEY’S IMPORTS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee/Seller: Alexei Khimenko
Applicant/Buyer: Ajax Turner Beverages, LLC
Members: Scott Turner; Todd Williams; Jack Turner;
and Jill Crow

Before the Commission is a request for a change in ownership of the wholesale business currently located at 1056 Acorn Drive in Nashville, Tennessee. Ajax Turner Beverages, LLC wishes to purchase the wholesale business from Alexei Khimenko. (Scott Turner will own 25%; Todd Williams will own 20%; Jack Turner will own 30% and Jill Crow will own 25%.) The applicant LLC will be leasing the property from Tenn-Tex Properties for a period of four

years with monthly rent beginning at \$4150 and increasing to \$4357.50 over the term of the lease. All documentation has been submitted with the exception of the following:

- a. Bill of Sale;
- b. Use and Occupancy permit;
- c. TABC Inspection;
- d. Acknowledgement of the rules/regulations;
 1. Surrender of license by Alekesy's Imports; and
 2. TTB permit at this location.

Discussion/Action Taken:

Alexei Khimenko and William Cheek, III, attorney was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Surrender of license by Alekesy's Imports; and
- d. TTB permit at this location.

Commissioner Jones made a motion to approve. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**D. LIPMAN BROTHERS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Licensee: Lipman Brothers, Inc.
Stockholders: Robert Lipman; Richard Thibus; and Daniel Howell**

Before the Commission is a request for an additional storage warehouse facility for the above-referenced wholesaler. The storage facility will be located at 287 Hermitage Avenue in Nashville, Tennessee. No operations of the business will occur at this location: merely the storage of product. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Acknowledgement of the rules/regulations;
- d. Lease and deed;
- e. List of stockholders w/questionnaires;
- f. Charter.

Discussion/Action Taken:

Henry Hildebrand, attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the pending documentation:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Acknowledgement of the rules/regulations

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**E. TCD COMPANY (UNITED)
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: TCD, Company
Stockholder: Georgia Crown Distributing Company

Before the Commission is a request for a transfer of location of the wholesale business currently located at 4009 Air Park Cove in Memphis, Tennessee. They wish to transfer location to 7625 Appling Center Drive in Memphis, Tennessee. (7625 Appling Center Drive is the current location of Southwestern Distributing Company. TCD, Company was approved at the August, 2012 Commission meeting as the new stockholder of Southwestern Distributing Company.) They will be leasing the property from Crown Logistics, LLC for a period of one year, with monthly rent of \$19,600. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Deed to Crown Logistics;
- c. Signatures on lease.

Discussion/Action Taken:

Henry Hildebrand, III, Attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Deed to Crown Logistics;
- c. Signatures on lease.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

5. DISTILLERY

**A. GATLINBURG BARRELHOUSE
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

Applicant: Gatlinburg Barrelhouse, LLC
Member: Virginia Jessup Baker

Before the Commission is a request for a new distillery to be located at 650 Parkway in Gatlinburg, Tennessee. Ms. Virginia Baker wishes to initially invest \$75,000 to operate the business as a LLC. The applicant LLC is sub-leasing the property from Gatlinburg Distilling, LLC for a period of twenty years with monthly rent at \$12,500. Tao Enterprises, Inc. is the owner of the property. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations.

Discussion/Action Taken:

Chris Raybeck, attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval.

Commissioner Jones made a motion to approve. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

6. PRIVATE CLUBS

**A. VFW POST NO. 4893
101 Eddy Lane
Franklin, TN 37064-2936**

Applicant: Roy F. Alley VFW Post No. 4893
Owners: Roy F. Alley VFW Post No. 4893
David Pratt, Commander
Jimmy Hassell, Sr Vice Commander
William Lehenbauer, Jr Vice Commander
James Ruzinok, Quartermaster
Lloyd Anderson, Trustee
David O’Byrne, Trustee
Matthew Kinser, Trustee

Before the Commission is a request of the Private Club, Roy F. Alley VFW Post No. 4893, located at 101 Eddy Lane, Williamson County, Franklin, TN 37064-2936, for an On Premise Permit to sell alcoholic beverages pursuant to T.C.A. §57-4-102(8). This organization is a non-profit association existing under the laws of the State of Tennessee for at least two (2) years prior to this application. The organization has at least one hundred (100) members regularly paying dues, which meets the statutory requirement of at least one hundred (100) members. The organization is operated exclusively for pleasure, recreation and other non-profit purposes of its members and no part of the net earnings inures to the benefit of any shareholder or member. The organization has adequate space for the reasonable use of its members with a suitable kitchen and dining room and with sufficient employees for cooking, preparing and serving meals for its members and guests. No member, officer, agent or employee of this Private Club is paid directly, indirectly nor do any of the aforementioned parties directly or indirectly receive in the form of salary or other compensation, any profits from the sale of spirituous liquors, champagnes or malt beverages beyond the amount of such salary as may be fixed by the members at an annual meeting or by its governing body out of the general revenue of the club. All documentation has been submitted except the following:

- a. Copy of published newspaper notice
- b. Certificate of Occupancy
- c. Department of Revenue Bond
- d. TABC Inspection
- e. Acknowledgement of Rules and Regulations
- f. Liquor price schedule
- g. Food menu
- h. Tennessee Sales Tax Number

Discussion/Action Taken:

James D. Patterson was present at the meeting. Assistant Director Bell reviewed the matter to the Commission and recommended approval upon submission of the TABC Inspection and the Acknowledgement of the rules and regulations.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

5. CONTESTED CASES

A. SERVER TRAINERS

1. Maria Tressler – September

On September 14, 2012, Maria Tressler was served with a summary suspension of her Server Training Certificate. Tennessee Certificate # 2309. The suspension was based upon the following:

- Citation ST # 11-0001 (**UNPAID**)
- Citation ST # 11-0002 (**UNPAID**)
- Citation ST # 12-0004 (**UNPAID**)
- According to Training Specialist Virginia Stooksbury, several students have called the TABC trying to get their server permit cards, stating that they took a class from Maria Tressler and have yet to receive server permits. Ms. Stooksbury has looked through the TABC database and found have no information in regards to these classes or students. It appears that students are paying for classes, yet not receiving their server permits.
- Ms. Tressler also submitted a check with non-sufficient funds to the TABC in June in the amount of \$435.00

Discussion/Action Taken:

Attorney Ginna Winfree reviewed the matter to the Commission and stated that Virginia Stooksbury, Training Specialist in the Knoxville Post of Duty has received numerous calls from servers stating that individuals had paid for the server training classes and was looking for their server permits and had not yet received them. Ms. Winfree stated that Ms. Stooksbury had conducted research and determined none of classes had been turned in.

Ms. Stooksbury testified that Maria Tressler received several citations for not reporting classes she conducted. Ms. Stooksbury stated that the server trainer is to notify the TABC within 7 days of when the server trainer class is being taught.

Maria Tressler had been issued citations for not turning in her rosters of the classes. Ms. Stooksbury also stated that Ms. Tressler had written a bad check for one of her classes she had turned in which caused considerable delay in having the server permits

issued. She testified that several of the applicants had to pay another trainer and take the class again to obtain their server permits. Ms. Stooksbury testified in June, 2012, Ms. Tressler was fired from teaching Aim to Serve and was required to return to teaching TIPS Class. Ms. Stooksbury talked to TIPS and they said she had not turned in any notification of her classes in some time.

When asked how the public is notified, Director Elks stated that the staff will place on the TABC web-site the notice of summary suspension so the trainers, servers and general public will have notice.

Commissioner Jones made a motion to uphold the staff's decision of summary suspension. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

2. Christopher Phillips

On February 12, 2012 TABC received a permit application from Taylor Clements. The permit was denied because Ms. Clements was not 18 years of age. Ms. Clements was not eligible for a permit until July 5, 2012. Ms. Clements informed Hayword Reed, Server Trainer Specialist, and Danielle Elks, Executive Director that she was told to put on the application that she was 18 by her training instructor, Christopher Phillips. Mr. Phillips was cited for telling a server in his class to provide false and misleading information to the agency in violation of TABC Rule 0100-8-.06 (4).

Discussion/Action Taken:

Ginna Winfree, stated that on May 12, 2012, Christopher Phillips held a server training class and Taylor Clements, who is 17 years old attended his class. Ms. Clements was unavailable for testimony because she is at UT Knoxville. Her birthday was not until July and this happened in May of 2012. Attorney Winfree stated Ms. Clements put on her application that she was 17 years of age and Mr. Phillips told her to scratch her age out and put 18 on it. Attorney Winfree stated that Mr. Phillips stated that he was in fact going to hold her application until after she turned 18 years of age. However, the application was brought to the TABC and processed. When the staff attempted to enter it in the computer, an error message was received that the birth date was not valid for a permit. Attorney Winfree stated that

one cannot obtain a server permit card until 18 years of age. Attorney Winfree stated that Mr. Phillips also notarized the document. Attorney Winfree further stated that when one notarizes a document one procedurally looks at a driver's license which would have clearly shown the birth date. Attorney Winfree stated that a citation was issued for \$500. Attorney Winfree, if he did in fact tell Ms. Clements to put the wrong age on the document, that is false and misleading information to the Tennessee Alcoholic Beverage Commission. Attorney Winfree stated whether or not his intention was to hold the application until after her 18th birthday, it was presented to the TABC.

Lyn Graves II, Attorney for Mr. Phillips stated that Mr. Phillips requested to come before the Commission because he has been conducting classes for 13 years, his reputation and integrity is very important to him, and that he is compliant with the rules and regulations of the TABC. Attorney Graves stated that since Ms. Clements is not present to have an opportunity to examine her, that it is all hearsay. He is not aware of any other evidence that is going to be presented, and he is prepared to move forward and get the matter resolved so that Mr. Phillips can continue with his business. Attorney Graves stated that Chris Phillips did not provide any false information and, if anything it was miscommunication. Attorney Graves stated that Mr. Phillips maintains that he did not provide any false information and, if anything it was miscommunication. Attorney Graves stated that Mr. Phillips taught a class and explained the process and procedures as he does to any of his students. Attorney Graves stated that Mr. Phillips, as a notary, he is bound to assure that the person signing the application and provides information on the application is the person who is signing it. Attorney Graves stated that a notary has no duty to go through the document and assure and guarantee that the information is correct. Attorney Graves stated that there is not any proof that Chris Phillips submitted the application. Attorney Graves stated that this matter should be dismissed because no evidence exists that Mr. Phillips did anything wrong.

Hayword Reed was sworn in as a witness. Mr. Reed testified he is a server training specialist with the TABC and is the point of contact for server training, be it to certify trainers, certify programs, and also writing violations for trainers. Mr. Reed testified that he is also the point person for the Responsible Vendor Program and any questions that

any questions that revolve around server training that any server trainers may have. Attorney Winfree asked Mr. Reed the first time that he was made aware of this matter. Mr. Reed testified the first time that he was made aware of it was when Tammy Turner had asked him if he realized that Chris Phillips had turned in an application. Mr. Reed testified that the first time that he was really made aware of it was when Assistant Director Keith Bell showed him the e-mail and that he needed a violation written on this matter and he proceeded to write the violation. Mr. Reed testified that the e-mail was sent to Director Elks and when he wrote the violation, he was then presented the rest of the information. Mr. Reed testified that once he received all the information, he saw where she had the name up there that was slightly different and at that time he called Ms. Clements. He stated that what he got from the conversation is that a violation needed to be written on Chris Phillips.

Mr. Reed testified that when the violation was written, he called Mr. Phillips and told him a violation was being issued pertaining to Ms. Clements. Mr. Reed testified that Mr. Phillips told him that he did not intend to bring the application to the ABC and the application was brought by accident--that it was not supposed to be brought until after July 5th. Mr. Reed testified that Mr. Phillips stated he was going to appeal it.

Mr. Reed testified that in his narrative that on May 12, 2012 the TABC received a server permit application from Taylor Clements and the permit was denied because one must be 18 years of age to obtain a server permit. Mr. Reed testified that Ms. Clements was not eligible for a server permit until July 5, 2012. Mr. Reed testified that she was informed that her permit would be mailed to her on July 5, 2012. Mr. Reed testified that he received an e-mail forwarded from Director Elks that Ms. Clements stated that her instructor, Christopher Phillips, told her to put on her application that she was 18 years old. Mr. Reed testified that he talked to Ms. Clements to verify her statement. Mr. Reed testified that Ms. Taylor informed him several people heard Christopher Phillip's tell her to do so. Mr. Reed testified that Christopher Phillips received this report of violation for telling the server in his class to provide false and misleading information to this agency.

Attorney Graves stated that he recognizes that is part of Mr. Reed's duties to write a violation after receiving this information, however, he stated he would object to this evidence being presented to the Commission. Attorney Graves stated that if one looks at the narrative, it says Ms. Clements, who is not here, informed Ms. Elks through e-mail and that is hearsay. Christopher Phillips told her to put on her application and that is hearsay. Attorney Graves stated that Mr. Reed stated he talked to Ms. Clements and she informed him and that is hearsay. Attorney Graves stated that his investigation has provided no independent basis for a violation, but rather is just relying on all hearsay.

Attorney Winfree introduced this server application as evidence. Mr. Reed testified that Christopher Phillips stated that trainers should not be bringing the applications to the TABC office any way. Attorney Winfree asked Mr. Reed to verify that there was an age scratched out and another age written on the application and that on the back of the application that it has been signed and notarized by Christopher Phillips. Mr. Reed testified that Mr. Phillips called him once the citation arrived and he realized that it was a \$500 citation. Mr. Reed testified that Mr. Phillips stated he was not trying to fraud the TABC and that he would have changed the birthday if he was really trying to be fraudulent. Mr. Reed testified that Mr. Phillips stated he told her to scratch it out because he was not going to submit it to TABC until after July 5th. Mr. Reed testified that Mr. Phillips stated he would have her change her birthday rather than scratch the birth date if he was trying to defraud TABC. Mr. Reed testified that Mr. Phillips again stated he was going to fight it and his ground was that the trainers should not be doing the permits any way.

Attorney Graves stated he noticed the application was highlighted and asked Mr. Reed if he highlighted the application. Mr. Reed testified that he was not sure, but that he could have highlighted the application.

Attorney Graves asked Mr. Reed if Mr. Phillips had brought the application to TABC. Mr. Reed testified that Mr. Phillips indicated he had not brought the application to the TABC office. Mr. Reed indicated that Kelly, his wife, had brought the application along with the other applications and that was not suppose to have been submitted with the other applications to the TABC. Mr. Reed testified that Mr.

Phillips stated that Mrs. Phillips had brought the server application by accident. Attorney Graves asked Mr. Reed how long had he worked with Mr. Phillips in this capacity. Mr. Reed testified that he had worked with Mr. Phillips, in this capacity, for approximately 14 years.

Commissioner Jones stated he was upset that a trainer who was to train servers to verify ages did not verify the age of the applicant. However, felt that \$500 was too steep for a first time offense and that he would be comfortable with a \$250 fine.

Attorney Winfree asked Mr. Phillips what was his normal speech he gave the students when teaching the server training class. Mr. Phillips testified he states that one cannot be convicted of a felony in the last four years and cannot be convicted of a felony that is related to the sale of Schedule I or Schedule II, sex related crime, rape or embezzlement or convicted of a misdemeanor with the intent to sell alcoholic beverages to a minor or the intent to sell drugs.

Attorney Winfree asked Mr. Phillips if he says anything about age or if one must be 18 years of age. Mr. Phillips testified that he does tell them that they need to 18 years of age to obtain a server permit, that one must successfully pass the course, and that one must submit your application to the TABC. Attorney Winfree asked Mr. Phillips if he knew that when she signed the application as 18 and dated this May 12, that she was not 18 and that he notarized the application, but knew that she was not 18 years of age. At the end of the class, Mr. Phillips told Ms. Clements to fill out the application and Ms. Clements said she was not 18 yet. Mr. Phillips testified at that time he told Ms. Clements that he could not turn the application into TABC and that she would have to turn in the application herself. Ms. Clements then said she would not be able to do that and Mr. Phillips testified he told her that he could not do that for her. Mr. Phillips testified that Ms. Clements asked how she could get him to turn the application in. Mr. Phillips testified that he told her that that was between her and the State. Mr. Phillips testified that Ms. Clements stated that if she filled out the application like it is suppose to be after I turn 18 is that going to be okay. Mr. Phillips told her he would hold the application for her if she wanted him to do that; otherwise, he stated it will be denied because she was not 18.

Mr. Phillips told her to fill it out so that it could be submitted after her 18th birthday. Mr. Phillips testified that he did not tell her to fill out as though she was 18. Mr. Phillips testified that he specifically told her that she had to be 18 years of age to obtain her server permit.

Attorney Winfree asked Mr. Phillips how the application got to the TABC office. Mr. Phillips testified he did not know. Mr. Phillips testified that one of the trainers went into his office, got the applications out of his box, and brought the applications to the TABC. Mr. Phillips testified that when he checks the applications and the driver's licenses, it is important to him to have the correct driver license number. However, he does not check the date of birth. Mr. Phillips testified that he did know that Ms. Clements was not 18.

Attorney Graves asked Mr. Phillips if it was his intention to turn in this application before July 4th. Mr. Phillips testified that it was not his intention.

Mr. Phillips testified that regarding the submission of applications, that he brought this matter to the Commission. Mr. Phillips testified that this is a voluntary procedure, but he is forced to do this because if he is going to be able to be competitive with the other trainers. Attorney Winfree stated this is not the issue whether the trainers should do this and that it is a business decision that is made.

Commissioner Jones stated that he respects the training that Mr. Phillips does and that he has a good reputation as a trainer. Commissioner Jones also stated that he feels as a Commission the trainers throughout the state are expected to look at the driver licenses to make sure the pictures and date of birth matches their driver's license. Commissioner Jones stated he does feel that \$500 is a fair amount, but does feel \$250 is more reasonable in that it matches what a first time server serves a minor and pay the administrative cost. Commissioner Jones stated that if Mr. Phillips does not like his judgment he has the right to appeal the decision.

Commissioner Jones made a motion to reduce the fine to \$250 and allow Mr. Phillips the opportunity to pay the fine or to take his appeal further. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

B. SUMMARY SUSPENSION OF LBD LICENSE

1. Yeah Baby's (formerly Silverado's) – Permit #52488

Order of Summary Suspension of License -

On or about September 3, 2012, approximately 50 shots were fired at Yeah Baby's, located at 1204 Murfreesboro Rd. and three people were shot. Semi-automatic hand guns were used. On September 14, 2012, TABC summarily suspended the liquor- by- the- drink license of Yeah Baby's based on the health, welfare, and safety of the public. TABC is seeking permanent revocation in later proceedings.

Discussion/Action Taken:

Paul Eichel and Paul Strianse, attorney, were present at the meeting. Assistant Director Keith Bell was the hearing officer. Ginna Winfree was the attorney for the TABC.

Attorney Winfree testified that on September 3, 2012 there was a shooting occurred at Yeah Baby's. Attorney Winfree stated that there were approximately 50 shots fired and bullet casings found in a nearby parking lot. Attorney Winfree testified there three people injured and taken to Vanderbilt Hospital. Attorney Winfree stated that the subjects have not been caught at this time. Attorney Winfree stated that the fight started inside the premises of Yeah Baby's. Attorney Winfree stated that testimony of the police officers will show that everyone involved in the shooting had Yeah Baby's security bands and that they had been inside the club. Attorney Winfree stated on September 11, 2012, TABC SA Agent Vincent Marsanico served Mr. Paul Eichel, the owner of Yeah Baby's, with a summary suspension. Attorney Winfree stated that the summary suspension was served for the welfare, public safety requiring it. Attorney Winfree stated that this summary suspension was imposed until the hearing of this date. Attorney Winfree stated that depending on the decision of the Commission, the defense has the ability to appeal. Attorney Winfree stated it is the staff's position that due to the incident, the establishment is a danger to the community and the people around. Attorney Winfree stated that it is not in the best interest of the Tennessee Alcoholic Beverage Commission to continue to license the establishment.

Attorney Strianse stated that the purpose of the hearing today is to determine whether the incident, in fact, occurred on the premises of Yeah Baby's on Murfreesboro Road in Nashville. Attorney Strianse requested that the Commission apply very strictly the rule of the Tennessee Alcoholic Beverage Commission in connection with the responsibility of someone that operates an establishment that is licensed in Tennessee. Attorney Strianse stated that TABC Rule #0100-01-.03(6) related to the conduct of the business and the licensee's responsibilities. He further stated, that the licensee is responsible for the law and order and maintenance of the licensed premises. Attorney Strianse stated that the licensee is not responsible for incidents that do not happen at the establishment. Attorney Strianse stated that Detective Injaychock will testify that the incident began on the property of the Firestone parking lot which is across the street from Yeah Baby's. He further stated that Detective Injaychock will testify that the shots were fired across Murfreesboro Road to the Longhorn Restaurant.

Detective Injaychock was sworn in as a witness. Detective Injaychock testified that he responded to the incident at approximately 3:00 a.m. He testified that there was a patrol officer in the area of Murfreesboro Road on a traffic stop near Longhorn Restaurant when he heard several gun shots, and then saw a Chevrolet Impala speed out of the parking lot of Longhorn Restaurant toward Briley Parkway where patrol officers stopped the Chevrolet Impala at Briley Parkway and Murfreesboro Road. Detective Injaychock testified that there were three male suspects in the vehicle that had been shot. He testified that one of the suspects was shot in the leg, one was shot in the stomach, and one was shot through the jaw.

Detective Injaychock testified the investigation revealed that Javon Young, Cedrick Doss and Dantarius Hancock were all present at Yea Baby's Night Club and they crossed the street at Murfreesboro Road from Yea Baby's having parked their vehicle at Longhorn Restaurant's parking lot. Detective Injaychock testified they had gotten in a middle of a cross fire where subjects from Firestone were shooting at Joshua Robinson, Keindra Finney, Lamontez Robinson and Keith Simmons who were in the Longhorn Restaurant parking lot. Detective Injaychock stated the four subjects still had their wrist bands on from where they had left the night club, and gave statements that they were at Longhorn when the gun battle started. Detective Injaychock testified that the four subjects stated they did not fire any weapons. Detective Injaychock testified where the four subjects were, several guns and several bullet casings were found. He further testified that the subjects stated they never fired

any shots. Detective Injaychock testified that there were approximately 20 shell casings in the Longhorn Restaurant's parking lot and approximately 30 shell casings in the Firestone parking lot. Detective Injaychock testified that they found two 40 calibers and one 9mm casings.

Detective Injaychock testified that he talked to Joshua Lewis, a security guard, who approached him on the night of shooting. Detective Injaychock testified that Joshua Lewis stated that he had chased down an individual over toward the McDonald's parking lot. He further stated this was one of the individuals that were arrested in the shooting.

Detective Injaychock testified from the interviews he conducted with the business owners that Yeah Baby's had permission from Longhorn Restaurant, The Tobacco Store and Firestone to use their parking lots. Detective Injaychock stated that he talked with the manager of Firestone who stated that he had given Yea Baby's verbal permission to use the parking lot. He further stated that the business partner with Longhorn Restaurant also stated had given Yeah Baby's verbal permission, and also Mario with The Tobacco Store stated he had also given Yeah Baby's verbal permission to park in their parking lots.

Special Agent Vincent Marsanico was sworn in as a witness. Special Agent Vincent Marsanico testified upon entry on August 4, 2012, he observed a large crowd of people at the club. SA Marsanico testified that he also observed an overly intoxicated lady being helped out of the ladies restroom with individuals holding onto her to keep her from falling down. SA Marsanico testified that she was slurring her language. SA Marsanico testified that friends were trying to keep him from questioning her. SA Marsanico testified that the security at Yea Baby's did not take any action in this matter. Attorney Winfree stated that this action was in violation of TABC Rule #0100-101.03(6). Attorney Winfree stated there were several technical violations, one including two questionnaire manager violations, two bartenders without server permits, four waiters/waitresses that did not have server permit cards. SA Marsanico testified that they did not arrest the overly intoxicated lady and he did not run a criminal history check on her.

Executive Director Elks was sworn in as a witness. Director Elks testified that the staff does look at the past history of an establishment in regard to suspension of their licenses. Director Elks testified that there was a consent order entered between the TABC and the establishment when Davidson County determined the

establishment was a public nuisance. In conjunction with the public nuisance order, the TABC summarily suspended the establishment's license. Director Elks testified that in order for Mr. Eichel to begin operating again, the staff entered into a consent order as part of the ending of the abatement of the nuisance provision. Director Elks testified that Mr. Eichel had to pay all citations to the agency. Director Elks testified that they entered into the agreement that the establishment go from hip-hop music to country format.

Joshua Lewis was sworn in as a witness. Joshua Lewis testified that he was employed with Walden Security Company as a full time employee in the Tennessee Tower State Office Building and he also does club security part time. Joshua Lewis testified that he did receive training for club security from Walden Security. He testified that his job with Yea Baby's was to check ID's, placing an X on the hands of underage individuals and placing wristbands on overage individuals. Mr. Lewis testified that he was standing just outside the front door of Yea Baby's when the shooting took place. Mr. Lewis testified that the shooting took place between 2:20 a.m. and 2:30 a.m. Mr. Lewis testified that while he was standing outside the front door of the club, he heard one gunshot, ducked, and heard more gun shots. Mr. Lewis testified that he and other security guards unholstered their weapons and made their way toward the shootings. He saw a Metro police officer pull up with his shotgun and he was telling people to stand back. He testified he saw an individual running back behind McDonalds and got him down at gunpoint and a Metro officer came to assist. Mr. Lewis testified there were approximately five or six armed security guards working outside that night at Yea Baby's and approximately 12 to 15 unarmed security guards inside. Mr. Lewis testified that the first shots came from the Firestone parking lot. He further testified that after he heard the first shot, he looked over and saw a guy chasing and shooting at another guy that was running away from him. Mr. Lewis testified that there were no incidents inside the club that evening. Mr. Lewis testified there were not any incidents inside the club that evening. Mr. Lewis testified that he did not see any of these individuals inside the club that evening. Mr. Lewis testified he had worked for Yea Baby's for approximately two to three years.

Paul Eichel, president and general manager of Yea Baby's, was sworn in. Mr. Eichel testified that all technical violations with the TABC were settled. Mr. Eichel testified he had managed Yea Baby's for approximately 3½ years. Mr. Eichel stated that when the Environmental Task Force and the TABC agents entered his establishment, his staff does not attempt to interfere. Mr. Eichel testified that Yea Baby's has never had any violation for sales to

minors. Mr. Eichel testified his bartenders have been trained not to sell alcoholic beverages to intoxicated individuals. Mr. Eichel testified when the club has an individual that is overly intoxicated, they remove them through a back office, and if they are possibly driving, they will not let them leave the premises and get a friend to drive them home. Mr. Eichel testified that they try to find out if they have taken any medications because that could be deadly. Mr. Eichel further testified he had met with Captain Todd Henry with the Metro Police Department. Mr. Eichel stated the police department said they were having a problem with the parking at Yea Baby's because their crowd was over filling the parking lot and using the parking lots in the area. Mr. Eichel testified that Captain Todd Henry was concerned about individuals crossing Murfreesboro Road. Mr. Eichel testified that Captain Henry suggested Yea Baby's rent some of the parking lots nearby. Mr. Eichel testified he acquired land behind Yea Baby's and spent \$15,000 clearing the land and putting lights on the property for it to be safe and he added 125 extra parking spaces. Mr. Eichel testified there had been three other shootings at Yea Baby's inside the club. Mr. Eichel testified there were injuries in each incident. Mr. Eichel testified this resulted in Metro Police Department shutting Yea Baby's down as a public nuisance.

Commissioner Jones asked Director Danielle Elks to define the definition of premises. Director Elks testified there is a definition of premises described in the statute such as a historical landmark and does not provide any assistance in the traditional definition of the word premises or what the Commission is considering in this case. Director Elks testified that historically when staff cites someone for the sale of alcoholic beverages off the licenses premises, it means an individual takes the alcohol and walks out a door and goes outside the four walls of the establishment. Director Elks testified the staff only considers the licensed premises being the building where the alcohol is sold and might possibly include a patio area. Director Elks testified that for it to be considered part of the licensed premises, it has to be connected to the building with ingress through the inside of the building.

Assistant Director Bell stated that the sole issue to be considered by Tennessee Code Annotated §4-5-320 is whether the public health, safety or welfare imperatively required emergency action by this agency. Assistant Director Bell stated that the Commission is either to affirm or deny the staff's summary suspension.

Commissioner Jones stated that on the basis of what evidence heard today and on based on his experience how he was told to view the role of this agency, that he is having a difficult time connecting anything that happened inside the premises of Yea Baby's the night of the shooting because there is not any evidence presented that there was any occurrence inside the premises. He further stated that if a group of men walk out and get in a gun fight that is not on the property of the premises that the Commission should summarily put the establishment out of business without having a full proper hearing that would allow a full presentation of evidence. Commissioner Jones stated there was a casual commentary about Yea Baby's having three shootings inside the establishment, but the staff did not choose to bring that out as factual matter.

Chairperson McDaniel stated that from the paperwork she received is based upon evidence that Yea Baby's blatantly has had a disregard for the laws for the sale of alcoholic beverages in the State of Tennessee. Chairperson McDaniel stated that if the Commission had heard about the shootings that occurred inside the club, she did not think the Commission would be here now because Mr. Eichel could not prove that these were not inside of his establishment. Chairperson McDaniel stated that the Commission would have already voted because he could not clearly say that these were not inside the establishment. However, Chairperson McDaniel stated while the TABC agent was inside the establishment, he did not take the action that she suspected he would have taken, based on what is listed in the suspension. Chairperson McDaniel stated that the agent should have taken some action that night if the safety, health and welfare required it. Chairperson McDaniel stated she was in agreement with Commissioner Jones. Chairman McDaniel stated that based on the information presented today, the Commissioners have not been presented anything that leads the Commission to believe they have jurisdiction to summarily suspend without going through the due process of the administrative hearing judge first and then it coming back to the Commission. Chairperson McDaniel stated that while the Commission believes that Detective Injaychock presented evidence that these individuals had wrist bands on and know they were on the premises, but again nothing was acted upon to them while they were in the establishment and because this incident happened outside of the premises, that the Commission cannot uphold the summary suspension.

Commissioner Jones made a motion that the Commission lift the summary suspension that currently applies to Yea Baby's and allow the matter of a revocation hearing to proceed to the scheduled date of November 7, 2012 with the understanding that an administrative law judge's opinion would be presented to this Commission at a later date and this Commission can act upon it in any way the Commission sees fit and the Commission is not obligated to follow the administrative law judge's opinion that is offered by him as a person trained in judicial matters. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

6. BUDGET

7. CONSENT ORDERS

8. PENDING MATTERS LIST

9. PERSONNEL

10. MISCELLANEOUS

A. Monthly Summary of TABC Activity

- B. Interpretation of Language found in Public Chapter 691 (Farm Winery Bill).** Section 1(c)(4) of the Public Chapter 691 indicates that a farm winery may (1) offer complimentary tastings on the premises of the farm and (2) may sell at retail on the premises of the farm in sealed containers in a designated building or area where no wine is consumed. The issue for the Commission to determine is whether wine may be sold in sealed containers where the complimentary tastings occur.

Discussion/Action Taken:

Jennifer Albrecht, Legislative Liaison for the Tennessee Farm Winery Growers Alliance and Bill Hubbard, Attorney representing the Tennessee Farm Winery Growers Association, were present at the meeting. Director Elks stated the issue before the Commission is the interpretation of Public Chapter 691 that was signed into law on March 22, 2012. Director Elks stated that this bill allows a farm that grows grapes to send the grapes to Tennessee licensed wineries and have the wineries to custom crush the grapes and transport it back as a finished product for the farm to sell upon receiving a license from the Tennessee Alcoholic Beverage Commission.

Director Elks stated that it has recently been brought before the staff that there is vague language in the statute. Director Elks stated that wineries have areas where they can give complimentary tastings of their product just like farm wineries and they can also sell the bottles at retail. Director Elks stated that she and Jennifer Albrecht have had discussions that led to a definition being promulgated in our rules by the TABC that defines the licensed premises of the wineries. Director Elks stated because the wineries operate as a retail establishment, they cannot sell the bottle of wine and allow the customer to consume the bottle of wine on their licensed premises. She stated that the staff has never stopped a winery from giving the complimentary samples on their licensed premises. Director Elks stated some of the wineries have a porch at the winery and the porch is not defined as part of the licensed premises. Therefore, the winery allows the customers to consume the wine on the porch because it is not part of the licensed premises.

Director Elks stated in Public Chapter 691 it sets forth in Section 1 that on the premises of the farm, single servings of its wine without charge is a complimentary tasting and sell it at retail on the premises of the farm the sealed containers of the wine made from the produce of its vineyard in a designated area or building where no wine is consumed. Director Elks that wine sold in sealed containers on the premises of the farm may not be consumed within the building where such wine is sold.

Director Elks stated the question has arisen whether the tastings can continue to be provided in an area where the retail sale of the wine is taking place.

Attorney Bill Hubbard stated the language in the law says the bottled wine may be sold where no wine is consumed. He further stated that the purchased bottle wine cannot be consumed within the building where the wine is purchased. Mr. Hubbard stated that their position is that wine consumed relates to the wine purchased and does not relate to complimentary tastings. Mr. Hubbard stated that the purchase of the wine and the samplings take place in the same building. He further stated that the association believes the law was not intended to keep this same practice from happening with a farm winery permit since they basically do the same process of selling the bottled wines and giving the samples. Mr. Hubbard stated that just like wineries, farm winery permit holders may offer complimentary tastings on the farm permit premises. Mr. Hubbard stated that wine purchased on the premises of the farm may not be consumed within the building where such wine is sold. State law and TABC rules do not use the word consumption when referring to complimentary tastings. He stated that the grape and wine law section states that a winery license may serve wine without charge as complimentary samples for tastings at the winery and may sell wine at retail in sealed containers at the winery but not

for consumption on the bonded premises. Mr. Hubbard stated that consumption relates to purchased wine not complimentary tastings. Mr. Hubbard stated that any winery licensed participating in a festival authorized by TABC shall be allowed to transport wine produced by the winery to sell at the festival for consumption off the premises. He further stated any non-profit association authorized by the TABC shall hold the festival shall apply for a special occasion license as defined in TCA §57-4-102 in order for participating wineries licenses under this section to serve complimentary samples and to sell wine produced by the wineries for consumption off premises. TABC Rule #0100-07-03(1) states that a winery licensed in this state may sell at retail only wine produced or finished on their own premises but not for consumption on the premises unless offered as a sample tasting which may be offered on the premises. Mr. Hubbard stated that wine sold in sealed containers on the farm may not be consumed where the building of such wine may be sold. There again he stated the law is talking about purchased wine not complimentary tastings. He stated the legislative history of the bill also supports this interpretation. He stated that Senator Faulk who sponsored the farm winery bill in the Senate explained the farm winery would pay an annual renewal fee and described the premises as where the wine is being stored. Where it is being offered for tastings and sold in sealed bottles not for consumption on the farm premises as defined in the TABC application. The tastings are taking place in the building where the wine is sold but the purchased wine is not being consumed. Mr. Hubbard stated that the Commission has copies of the letters from Senator Faulk and Representative Consatta explaining this was their intent. Mr. Hubbard stated in summary, consumption does not include complimentary tastings both in the existing wine law, the TABC rules nor in the farm wine permit law. He stated that consistent with the practices at wineries and wine festivals, he requests that farm wine permit holders be permitted to offer complimentary tastings at the locations where the wine is sold.

Director Elks stated based on Mr. Hubbard's arguments before the Commission, the legislative intent and especially the letters, from the bill's sponsors gives the ability of the Commission to not read this as strictly as one might. Director Elks stated that it might create a burden on future applicants if the Commission read this strictly. Director Elks also suggested that either by rule promulgation or by statutory correction next session, that the language be fixed.

Commission Jones made a motion that staff be directed to incorporate the direction of the Commission that farm wineries be allowed to offer samples on their premises, and on that same premise allow sale of their product in a sealed bottle, but not allow post purchased consumption on the premises. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

11. **DATE OF NEXT MEETING** - Date was not set at this time.

Mary McDaniel
Chairperson

Shari Danielle Elks
Executive Director